8

COMMITTEE ON SUBORDINATE LEGISLATION
(2014-2015)

(SIXTEENTH LOK SABHA)

EIGHTH REPORT

(PRESENTED TO LOK SABHA ON 12.8.2015)

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NEW DELHI
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COMPOSITION OF THE COMMITTEE ON SUBORDINATE LEGISLATION (16th LOK SABHA)

(2014-2015)

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2.	Shri Ajay Kumar Garg	-	Director
3.	Smt Jagriti Tewatia	-	Deputy Secretary
4.	Shri Parveen Kumar	-	Committee Assistant

I N T R O D U C T I O N

I, the Chairperson, Committee on Subordinate Legislation having been authorised by the Committee to submit the report on their behalf, present this Eighth Report.

2. The matters covered by this Report were considered by the Committee on Subordinate Legislation at their sitting held on 5.5.2015.

3. The Committee considered and adopted this Report at their sitting held on 4.8.2015.

4. For facility of reference and convenience, observations/recommendations of the Committee have been printed in thick type in the body of the Report and have also been reproduced in Appendix-I of the Report.

5. Extracts from the Minutes of the Ninth sitting of the Committee (2014-15) held on 5.5.2015 and Extracts from the Minutes of Thirteenth Sitting of the Committee (2014-15) held on 4.8.2015 relevant to this Report are included in Appendix-II of the Report.

DILIPKUMAR MANSUKHLAL GANDHI
Chairperson,
Committee on Subordinate Legislation

New Delhi;
4 August, 2015
13 Sravana, 1937 (Saka)

REPORT

I

The Central Industrial Security Force, Security Wing, Sub-Inspector (Executive) Recruitment Rules, 2013 (GSR 783-E of 2013).

The Central Industrial Security Force Security Wing, Sub-Inspector (Executive) Recruitment Rules, 2013 (GSR 783-E of 2013) were published in the Gazette of India, Part-II, Section 3(i), Extraordinary on 18.12.2013. On scrutiny, it was observed that Rule 7 (1) stipulates that "*Every person appointed under these rules shall retire from service on the afternoon of the last day of month in which such person attains the age of sixty years or such other age as may be specified by the Central Government from time to time"*.

As a matter of fact, the age of retirement for Central Govt. employees is regulated by Fundamental Rule 56 (a) which *inter-alia* provides as under:-

> "*Every Government servant shall retire from service on the afternoon of the last day of the month in which he attains the age of sixty years…."*

1.2 It was accordingly pointed out to the Ministry of Home Affairs that adding of words "*or such other age as may be specified by the Central Government from time to time"* in Rule 7(1) makes the entire provision ambiguous as it signifies that for Sub-Inspector (Executive) in the Central Industrial Security Force, there could be a different age of retirement. Moreover, in case, the Ministry of Home Affairs have added these words in anticipation that the Central Government may specify any other age of retirement in future for this category of post, in that case also, there does not appear to be any need to insert these words in Rule 7 (1) in view of the fact that, in that eventuality, the Rules have to be amended and published in the Gazette. The Ministry was, therefore, requested to furnish their comments.

1.3 The Ministry of Home Affairs vide their OM dated 21 July, 2014 furnished the following comments:-

> *"The discrepancies as observed by the Committee on Subordinate Legislation on Central Industrial Security Force, Security Wing, Sub-Inspector (Executive) Recruitment Rules, 2013 (GSR 783-E of 2013) has been communicated to CISF for issuing necessary amendment. CISF is proposing an amendment in the above Recruitment Rules for amendment in Rule 7 (1) deleting the words "or such other age as may be specified by the Central Government from time to time".*

1.4 The Committee note that phraseology used in Rule 7(1) of CISF, Security Wing, Sub-Inspector (Executive) Recruitment Rules, 2013 that every person appointed under these rules shall retire from service on the afternoon of the last day of month in which such person attains the age of sixty years is in tune with Rule 56(a) of Fundamental Rules and therefore reasonable and justified. However, adding another phraseology in the said rule which signifies that age of superannuation could be such other as may be specified by the Central Government from time to time is an arbitrary one and can result in discrimination. It is true that if only the first-half of Rule 7(1) is read, an impression may be created that the age of retirement is sixty years, but if the second-half of the Rule is read harmoniously together with the first-half, it is clear that the intention of the rule making authorities was to fix the age of superannuation at 60, leaving it to the Government to permit, with their consent, some selective officers to continue in service for a shorter or longer period. The Committee firmly hold that Rule 7(1) had to be drafted in that manner so as to bring it in line with the rules of the Central Government relating to the superannuation of its employees. The Committee however express their satisfaction that on being pointed out, the Ministry have taken note of the discrepancy as observed by the Committee and have communicated to CISF for issuing amendment to Rule 7 (1) by deleting the words "*or such other age as may be specified by the Central Government from time to time*". The Committee therefore, recommend that the proposed amendment in Rule 7(1) may be brought out within a fixed time frame and a copy of the amended notification may also be furnished for perusal by the Committee.

II

The Ministry of Home Affairs, Department of Official Language, Central Hindi Training Institute, Hindi Teaching Scheme, Assistant Director (Hindi Typewriting and Hindi Stenography) Recruitment Rules, 2014 (GSR 95 of 2014).

The Ministry of Home Affairs, Department of Official Language, Central Hindi Training Institute, Hindi Teaching Scheme, Assistant Director (Hindi Typewriting and Hindi Stenography) Recruitment Rules, 2014 (GSR 95 of 2014) were published in the Gazette of India, Part-II, Section 3(i) dated 17.5.2014. On scrutiny it was found that in Column 7 (ii) of the Schedule appended to the Rules, besides speed in Hindi shorthand, 40 words per minute in Hindi Typewriting were prescribed. Since manual typewriters have already been replaced in almost all the Government Organizations and typing work is now being performed on computers, it was felt that the speed in typewriting has to be transformed to 'key depressions'.

2.2 The Ministry of Home Affairs were therefore, requested to furnish their clarification on the aforesaid point.

2.3 The Ministry of Home Affairs vide their OM dated 23 September, 2014 submitted as under:-

"the post of Assistant Director (Typing and Shorthand) is a Group A post and the post has been sanctioned for Central Hindi Training Institute (CHTI) which is a subordinate office of Department of Official Language. The procedure to frame Recruitment Rules and to carry out the amendments thereto has been prescribed in the guidelines issued by Department of Personnel and Training. It is mandatory for every Department/Office to move the proposal for Recruitment Rules according to guidelines issued by the DOPT and to send it to them for their concurrence. After the approval of DOPT Recruitment Rules are sent to UPSC for their consultation and before the issue of notification to this effect the proposal is also required to send to the Ministry of Law for vetting of the same.

As far as the question pertaining to Column 7 (ii) of the Schedule of the Recruitment Rules is concerned, it is hereby clarified that the test of typing for the post of Assistant Director (Hindi Typewriting and Hindi Stenography) is being conducted by the UPSC on Manual Typewriters only. In view of this the typing speed in Hindi has been prescribed 40 words per minute. However, the suggestion regarding transformation of speed in Hindi Typewriting to "Key Depressions" is acceptable and necessary amendments in this regard will be made after following the procedure prescribed for amendment of Recruitment Rules.

In this regard the Director (CHTI) has been instructed to prepare a proposal for amendment of Recruitment Rules and to send it to the Department so that necessary amendments could be made with the approval of DOPT, UPSC and Ministry of Law".

2.4 The Committee note that under column 7(ii) of the Schedule pertaining to the post of Assistant Director (Hindi Typewriting and Hindi Stenography), besides requisite proficiency in Hindi Shorthand, speed of 40 words per minute in Hindi Typewriting has still been computed on the basis of manual typewriters especially when these typewriters have already been replaced by computers in almost all Government organizations. The Committee also note that even though the Recruitment Rules, prior to their publishing in final form, had to go through a rigorous process of concurrence, consultation and vetting by DoPT, UPSC and the Ministry of Law respectively, such errors go unnoticed and the plea of the Ministry that Hindi typewriting is being conducted by the UPSC only on manual typewriters also appears untenable especially when office automation has already reached to all the organizations of Government of India. The Committee, however, express their satisfaction that Ministry of Home Affairs on being pointed out has agreed to bring out appropriate amendment regarding transformation of speed in Hindi Typewriting to 'key depressions'. The Committee therefore, recommend that the proposed amendment may be brought out expeditiously and the amended notification may be furnished to the Committee.

III

The Coffee Board (Cadre and Recruitment) Rules, 2014 (GSR 198-E of 2014).

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The Coffee Board (Cadre and Recruitment) Rules, 2014 (GSR 198-E of 2014) were published in the Gazette of India, Extraordinary in Part II Section 3, Sub Section (i) dated 26.3.2014. On scrutiny of the rules, certain shortcomings were observed and same were referred to the Ministry of Commerce for their comments. The issues have been elaborated in the succeeding paragraphs:

A

Lack of clarity

3.2 The Ministry have broadly, used 'Govt. of India or Central Govt' as appointing authority (rule 5), approving authority for other schemes (rule 12), for Residuary matters (rule 15), interpretation of rules (rule 16) and as appointing authority under Col. 12 of the Schedule in case of Chairman, Secretary and Director of Finance etc., which is not specific and did not clarify about the specific authority/Ministry, who is responsible for a particular act.

3.3 The Ministry of Commerce & Industry (Department of Commerce) vide thier OM No. 09/03/2007-Plant-B dated 2/9/2014 furnished the following reply:-

a) Rule 5 – Appointing Authority for the post of Chairman & Secretary is Department of Personnel & Training and for Director of Finance is Ministry of Commerce & Industry.
b) Rule -12 – The approving authority for the schemes on Career Improvement of the employees of the Board is the Ministry of Commerce & Industry.
c) Rule-15 – Residuary Matters – 'In respect of all matters not specifically provided for in these rules, the corresponding provisions prescribed by the Government of India relating to its employees, as amended from time to time, will be followed'. Here, the Government of India means either the Department of Personnel & Training or the Ministry of Commerce and Industry.
d) Rule 16 – If any question arises as to the interpretation of these rules the Central Government shall decide the same. Here, the Central Government

means either the Department of Personnel and Training or the Ministry of Commerce & Industry.

e) The appointing authority in col. 12 of the schedule in case of Chairman and Secretary is Department of Personnel &Training and for Director of Finance is Ministry of Commerce & Industry.

3.4 In the aforesaid rules, term 'Govt. of India or Central Govt' had been used and on clarification being sought the Ministry have stated that the 'Govt. of India or Central Govt.' used in Rules 5, 12, 15 and in col. 12 of Schedule in case of post of Chairman, Secretary and Director of Finance means Ministry of Commerce and Industry/DoPT. The Ministry's clarification clearly states that in some cases the term 'Govt. of India or Central Govt' indicates Ministry of Commerce and Industry whereas in some it indicates Department of Personnel and Training. In such a scenario where a particular term or phrase indicates more than one agency, it is necessary that the same should be clarified in the rules itself and the expressions do not leave scope for varied interpretation.

3.5 The Committee note that in the aforesaid rules, the terms like 'Govt. Of India or Central Govt' have been liberally used for the purpose of Appointing Authority / Approving Authority etc. and on seeking clarification it has been stated that it indicates either the Ministry of Commerce and Industry or the Department of Personnel and Training. The Committee observe that when terms, words or expressions have more than one meaning it should be explicitly clarified in the rules itself so that there is no scope for varied interpretation of the expressions. The Committee therefore, recommend that the Ministry may clarify the above terms in the Rules themselves and bring out the necessary amendment to the Rules.

B

3.6 Further, in Rule 5(b) of the aforesaid rules, the word 'key posts' used was not specific and due to lack of clarity may invite different interpretation by different people. In this regard, the Ministry were requested to clarify what was meant by 'key posts'.

3.7 The Ministry of Commerce & Industry (Department of Commerce) vide thier OM No. 09/03/2007-Plant-B dated 2/9/2014 stated that the other key posts means the Chairman, Secretary and Director of Finance.

3.8 The Committee note that the terms like 'key posts' which was used in the Rules were unclear and non-specific. The use of such ambiguous terms in the rules tend to open the scope for varied interpretation by different persons. The Committee observe that on being pointed out, the Ministry have clarified that the key posts comprises of the posts of the Chairman, Secretary and Director of Finance. The Committee opine that vague expressions and terms tend to weaken the rules in terms of their framing and application. The Committee, therefore, recommend that the Ministry may clarify the term 'key post' in rules and bring out an amendment to this affect.

C

3.9 For the Scientific Posts, entry at Column 6 of the Schedule is devoid of desired linkage between essential qualification and experience. For instance, one of the essential qualification is Bio-technology or Chemistry or Bio-chemistry or Analytical Chemistry or Pathology or Zoology. However, experience has been confined to agricultural research or agricultural extension or Agricultural Teaching in a recognized institution. Secondly, the terminology *"in a recognised institution"* appears to be vague and therefore provides discretionary powers to the executive authority. As a matter of fact, the terminology *"recognised institution"* needs to be defined and co-related in explicit terms viz., recognised by UGC etc.

3.10 The Ministry of Commerce & Industry (Department of Commerce) vide thier OM No. 09/03/2007-Plant-B dated 3/11/2014 have furnished following reply:

> To provide wider opportunities, In Column No. 6, for direct recruits, the experience is confined to agricultural research or agricultural extension or Agricultural Teaching in a

recognized institution as the experience is any of these areas would be useful for carrying out the research Work on coffee.

It is proposed to substitute the terminology "in a recognized institution" as "in a recognized institution viz., ICAR institutes, Agricultural / Horticultural Universities, UGC and deemed universities.

3.11 In the schedule for scientific posts, entry in column 6 indicates that the experience is to be drawn from the recognized institution in the field of agricultural research or agricultural extension or Agricultural Teaching. The term recognized institution lacks specificity and is bears the risk of being interpreted differently by differently persons in accordance to their convenience.

3.12 The Committee note that the expressions such as recognized institution which are unable to convey the exact nomenclature and could be interpreted variedly should be avoided in the rules. The Committee desire that as far as possible the terms in rules should be spelt out with precision and accurately so that it does not leave scope for varied interpretation. The Committee note with satisfaction that on being pointed out the Ministry have agreed to amend the rules suitably. The Committee recommend that the Ministry may bring out the amendment at the earliest.

D

Non-inclusion of standard clause on definition and Disqualification clause.

3.13 The 'disqualification clause' relating to marriage as specified by Department of Personnel Training in recruitment rules has not been included in the rules. Further, the standard clause relating to definitions of terms and expressions used in the rules was also not part of the rules.

3.14 The Ministry of Commerce & Industry (Department of Commerce) vide thier OM No. 09/03/2007-Plant-B dated 2/9/2014 have furnished following reply:

"It is proposed to amend the rules to include 'disqualification clause' relating to marriage as specified by DoPT is as under:-

'(i) No candidate:

(a) who has entered into or contracted a marriage with a person having a spouse living
(b) who, having a spouse living, has entered into or contracted a marriage with any person shall be eligible for appointment to service.

Provided that the Board may if satisfied that, such a marriage is permissible under the personal law applicable to such a person and the other grounds for doing so, exempt any person from the operation of this Rule.

(ii) Every candidate shall furnish a declaration in this regard in the prescribed Proforma at the time of joining the services of the Board."

3.15 The Ministry of Commerce & Industry have further added that as regard to the standard definition clause they propose to include the clause stating that 'the words and expressions not defined in the rules will have same meaning as given in the Coffee Act, 1942'.

3.16 The disqualification clause is aimed at preventing unlawful multiple marriages and is an integral part of recruitment rules of all the Ministries and Departments of Government of India. The clause tends to indicate that the words and expressions which are not defined in the rules will have the same meaning as given by the Act. The standard definition clause is part of all the rules/regulations/Orders' which are framed under an Act.

3.17 The Committee note that the 'disqualification clause' is very much indispensible part of the recruitment rules and the standard clause on definition is generally part of the all subordinate legislation which usurp power from the Act of the Parliament. The Committee observe that the Ministry should ensure that while drafting rules standard clauses should certainly form part of rules. The Committee note with satisfaction that when the issue was taken up with the Ministry, the Ministry have agreed to incorporate the above clauses in the rules. The Committee recommend that the Ministry may amend the rules suitably to include above two clauses.

E

Discrepancy in the column relating to method of recruitment.

3.18 For the post at Sl.No. 12 of the Schedule [Non-Technical (Admn. & Accounts)] (Estate Officer), at column 9 *(Method of Recruitment whether by direct recruitment or by promotion or by deputation or absorption….)*, it has been stipulated as "By promotion failing which, then by deputation or direct recruitment". Since the post can also be filled up on deputation basis, at Column 10, it has been specifically provided that *"…..if none suitable, then by deputation of an officer from ….. "*. However, such type of clarity is missing for posts at Sl. No(s) 5, 6, 7, 8 & 20 for Non-Technical Posts and at Sl. No. 1 of Technical Post.

3.19 The Ministry of Commerce & Industry (Department of Commerce) vide their OM No. 09/03/2007-Plant-B dated 3/11/2014 have furnished following reply

Non – Technical Posts

(a) Post at Sl.No 5: Deputy Director (Administration or accounts). The sanctioned number of posts is only one. At any point of time, only one post viz., Deputy Director (Administration) or Deputy Director (Accounts) can be operated. If the post of Deputy Director (Administration) is to be filled, the method of recruitment is by selection. If the post of Deputy Director (Accounts) is to be filled, the method of recruitment is by deputation.

Further, there is no feeder cadre post in the Grade Pay of Rs. 5400, hence, the rules are framed so as to provide wider opportunities to the employees possessing the requisite Qualification and experience to become eligible for the post of Deputy Director (Administration).

In the initial proposal sent to the Law Ministry for vetting, the differentiation or filling up of the post of Deputy Director (Administration) and Deputy Director (Accounts) was clearly mentioned and both points were separately shown with a note that only one will be operational at a time. The RRs for the post were amended as vetted by M/o Law.

In view of the observations of the Committee on Subordinate Legislation, it is proposed to amend the rules for Sl.No.5 as under:-

Column no. 1: Either Deputy Director (Administration) or Deputy Director (Accounts).

Column No. 9: In case of Deputy Director (Administration), by selection.

Column No. 9: In case of Deputy Director (Accounts), by deputation.

Column No. 10: In case of Deputy Director (Administration), Selection by interview from among in-service Personnel holding post in the Grade Pay of Rs. 5400 for five years or from in-service Personnel holding post in the Grade Pay of Rs. 4600/- for seven years.

Qualification: Graduation.

Tenure: For a period of three years and extendable up to five years.

Column No. 10: In case of Deputy Director (Accounts), by deputation of a suitable Account Officer or Audit Officer from State or Central Government or public sector undertakings holding post in the Grade Pay of Rs. 5400 or equivalent for five years.

Tenure: For a period of three years and extendable up to five years.

(b) Post at Sl.No. 6: Deputy Director (Official Language) in Column No. 9 the method of recruitment is defined as "Selection from among in service personnel holding post with working experience in Hindi for five years in the Grade Pay of Rs. 5400 or in service personnel with working experience in Hindi for seven years in the Grade Pay of Rs. 4600/-
In the Official Language Wing of the Coffee Board at present there is no feeder cadre post in the Grade Pay of Rs. 5400, hence, rules are framed so as to provide wider promotional opportunities to the employees possessing the requisite qualification and experience to become eligible for the post of Deputy Director (Official Language)

(c) Post at Sl.No. 7: Officer on Special Duty (New Delhi) – In Column No. 9, the method of recruitment is defined as "Selection", in column No. 10 the method of selection is clearly defined.
Further, there is no feeder cadre for the post Officer on Special Duty (New Delhi), hence, the rules are framed so as to provide wider opportunities to the employees possessing the requisite qualification and experience to become eligible for the post of Officer on Special Duty (New Delhi) which is a tenure post.

(d) Post at Sl.No. 8: Joint Secretary (Legal) – In Column No. 9, the method of recruitment is defined as "By Selection". In column No. 10, the method of selection is clearly defined, Further, there is no feeder cadre for the post of Joint Secretary (Legal), hence, the rules are framed so as to provide wider opportunities to the employees possessing the requisite qualification and experience to become eligible for the post of Joint Secretary (Legal) which is a tenure post.

(e) Post at Sl.No. 20: Senior Assistant – In Column No. 9, the method of recruitment is defined as "By promotion, falling which then by deputation." However, in Column No. 10, only promotional aspect is defined and deputation is not defined. As there is a well-defined feeder cadre of Jr. Assistant with sufficient number of posts for the post of Sr. Assistant there may not be any need for incorporation of other method of recruitment viz., deputation.

It is proposed for deletion of the post "failing which then by deputation" at Column No. 9.

Technical Post

(a) Post at Sl.No. 1: Joint Director (Extension) – In Column No. 9, the method of recruitment is defined as "By promotion". In column No. 10, the method if promotion is clearly defined.
As there is a well-defined feeder cadre of Deputy Director (Extension) with sufficient number of posts for the post of Joint Director (Extension) there may not be any need for incorporation of other method of recruitment viz., deputation or direct recruitment.

It is proposed for deletion of the part – "falling which then by deputation or direct recruitment at Column No. 9.

3.20 The Committee note that there was lack of clarity in relation to the method of recruitment for the posts at Sl. No(s) 5, 6, 7, 8 & 20 in Non-Technical Posts and at Sl. No. 1 in Technical Post. The Committee note with satisfaction that the Ministry have agreed to amend the rules for necessary clarity in the method of recruitment. The Committee desire that Ministry should be more vigilant in drafting the recruitment rules so that clarity in rules is maintained. The Committee recommend that the Ministry may bring about the necessary amendments in the rules.

F

Probation Period

3.21 In the schedule for 'Non Technical – Administrative and Ministerial posts', for posts at Sl. No. 5, 7 and 8 in Col. 8 relating to probation the entry is given as 'Not Applicable'. However, in Col. 10 it is stated that in – service personnel with Rs. 4600 GP will be considered for the post which carries a GP of Rs. 6600. Therefore, probation period should be applicable to such candidates as there is a change in Group of Service as well as pay band.

3.22 The Ministry of Commerce & Industry (Department of Commerce) vide thier OM No. 09/03/2007-Plant-B dated 2/9/2014 have furnished following reply:

> The post at Sl.No. 5 is Deputy Director (Administration or Accounts), Sl. No. 7 is Officer on Special Duty (New Delhi) and Sl.No. 8 is Joint Secretary (Legal), are tenure posts. The period of tenure is three years and extendable upto five years for the post at Sl No. 5 and 8 and for post at Sl.No. 7, the tenure is five years and is extendable.
>
> As the said posts are tenure posts, the period of probation is not applicable for these posts.

3.23 For 'Non Technical – Administrative and Ministerial posts', for posts at Sl. No. 5, 7 and 8 in Col. 10 it is stated that in – service personnel with Rs. 4600 GP will be considered for the post which carries a GP of Rs. 6600 whereas in Col. 8 relating to probation the entry is given as 'Not Applicable'. As there is a change in Group of Service, the probation period is applicable, therefore, clarification was sought from the Ministry in this regard. The Ministry have clarified that above posts are tenure posts and probation period is not applicable. It may, however, be seen that nowhere in the rules it is mentioned that the above posts are tenure posts.

3.24 The Committee note that for the aforesaid posts the probation period was not prescribed even though there was a change in service group. The Ministry have given the clarification that as the above posts are tenure posts, therefore, no probation period is applicable. The Committee observe that already for various posts which are in the nature of tenure posts the same has been mentioned. Therefore, the Committee recommend that for the sake of clarity in the rules for above posts, it may be indicated that these posts are tenure posts.

G

3.25 For the post at Sl. No. 6, the probation period is given as two years even though the candidate with GP of Rs 5400 are to be considered for the post carrying GP of Rs. 6600. In case of Rs. 5400 GP in pay band – 3, the probation is not applicable as there is no change in Group of Service or pay band.

3.26 The Ministry of Commerce & Industry (Department of Commerce) vide thier OM No. 09/03/2007-Plant-B dated 2/9/2014 have furnished following reply:

> For filling up of the post of Deputy Director (OL), the feeder cadre is in-service personnel holding post in the GP of Rs. 5400 or in-service personnel holding post in the GP of Rs. 4600.
>
> The period of probation is applicable only for filling up of the post from in-service personnel holding post in the GP of Rs. 4600 as there is a change in Group of Service and Pay Band.

3.27 For 'Non Technical – Administrative and Ministerial posts', for post at Sl. No. 6 (Deputy Director (Official Language), in column 8 probation period is prescribed as two years, however, one of the feeder cadre for the post carries a grade pay of Rs 5400 which is in same pay band as the grade pay for the above post. Therefore, the grade pay is not applicable in this case. On clarification being sought from the Ministry it has been made clear by the Ministry that the probation period is only applicable to the feeder cadre carrying the grade pay of Rs 4600.

3.28 The Committee note that in column 8, probation period has been prescribed as two years for selection to the post of Deputy Director (Official Language). However, the probation period is only applicable to the feeder cadre carrying the grade pay of Rs 4600 and not the grade pay of Rs 5400 which was clarified by the Ministry when the ambiguity was pointed out. The Committee desire that lack of specificity in prescribing the probation period is certainly an infirmity which should be rectified. Therefore, the Committee recommend that the Ministry may amend the rules to clearly state that the probation period is only applicable for the feeder cadre which carries a grade pay of Rs 4600.

H

3.29 In the schedule to 'scientific posts', the post at Sl.No. 3 and 4 for Divisional Head in different fields and Deputy Director respectively, the experience for direct recruitment in the above categories requires 10 years experience in the post carrying GP of Rs. 5400 for recruitment to post carrying GP of Rs. 6600. Therefore, probation is not applicable where candidates of with GP of

Rs. 5400 in pay band – 3 are to be selected as there will no change in Group of Service or pay band.

3.30 The Ministry of Commerce & Industry (Department of Commerce) vide thier OM No. 09/03/2007-Plant-B dated 2/9/2014 have furnished following reply:

> Based on the observations of the Committee, it is proposed to amend the rules to delete probation period of two years in respect of the said post.

3.31 Among the 'scientific posts', the posts at Sl. No. 3 and 4, there was a contradiction in the entries for the aforesaid posts. On one hand in col 6 relating to qualification and experience, it is prescribed that the candidates with 10 years experience in the post carrying GP of Rs. 5400 will be considered. However, in col 8 probation period has been prescribed which is not applicable as both the grade pay fall in one pay band. On being pointed out, the Ministry have stated that they propose to amend the rules to delete the probation period in the posts.

3.32 The Committee strongly view the fact that Ministry had ignored the apparent contradiction in the entries for the posts at Sl. No. 3 and 4 in the 'scientific posts'. While one entry prescribed an experience of 10 years in the grade pay of Rs 5400, the other entry prescribes a probation period of two years eventhough the post to which recruitment is to be made carries a grade pay of Rs 6600. The Committee note that the both the grade pay were part of single pay band and consequently, no probation period was applicable. The Committee note with satisfaction that on being pointed out the Ministry have proposed to amend the rules to delete the probation period. The Committee recommend that Ministry may amend the rules to make the necessary changes.

I

3.33 The probation period for post of Assistant Specialist at Sl.No. 6, for various categories under Col. 8 was prescribed as two years whereas the candidates who would be considered should be from post carrying the GP of Rs. 4200 for the recruitment to post carrying GP of Rs. 4600. It was therefore, felt that the probation period is not applicable for such candidates as there

is no change in Group of Service or pay band. The matter was, therefore, referred to the Ministry for seeking clarification in this regard.

3.34 The Ministry of Commerce & Industry (Department of Commerce) vide their OM No. 09/03/2007-Plant-B dated 2/9/2014 furnished following reply:

> Based on the observations of the Committee, it is proposed to amend the rules to delete probation period of two years in respect of the said post.

3.35 The Committee seriously take note of the fact that the Ministry have failed to notice the glaring contradiction in the entries in the rules and prescribed a probation period when non was applicable. The Committee observe that the rules have prescribed probation period for the post of Assistant Specialist which carries a grade pay of Rs 4600 and feeder cadre carries a grade pay of Rs 4200. The probation period has been prescribed despite the fact that both the grade pays are part of Pay Band-2. The Committee note that on being brought to the notice of the Ministry, they have proposed to delete the probation period for the aforesaid post. The Committee recommend that the Ministry may bring out the necessary amendment to remove the probation period for the aforesaid posts at the earliest.

DILIPKUMAR MANSUKHLAL GANDHI
Chairperson,
Committee on Subordinate Legislation

New Delhi:
4 August, 2015
13 Sarvana, 1937 (Saka)

APPENDIX I

(Vide Para 4 of the Introduction of the Report)

SUMMARY OF RECOMMENDTIONS MADE IN THE EIGHTH REPORT OF THE COMMITTEE ON SUBORDINATE LEGISLATION

(SIXTEENTH LOK SABHA)

Sl.No.	Reference to Para No. in the Report	Summary of Recommendations
1		The Central Industrial Security Force, Security Wing, Sub-Inspector (Executive) Recruitment Rules, 2013 (GSR 783-E of 2013)
	1.4	The Committee note that phraseology used in Rule 7(1) of CISF, Security Wing, Sub-Inspector (Executive) Recruitment Rules, 2013 that every person appointed under these rules shall retire from service on the afternoon of the last day of month in which such person attains the age of sixty years is in tune with Rule 56(a) of Fundamental Rules and therefore reasonable and justified. However, adding another phraseology in the said rule which signifies that age of superannuation could be such other as may be specified by the Central Government from time to time is an arbitrary one and can result in discrimination. It is true that if only the first-half of Rule 7(1) is read, an impression may be created that the age of retirement is sixty years, but if the second-half of the Rule is read harmoniously together with the first-half, it is clear that the intention of the rule making authorities was to fix the age of superannuation at 60, leaving it to the Government to permit, with their consent, some selective officers to continue in service for a shorter or longer period. The Committee firmly hold that Rule 7(1) had to be drafted in that manner so as to bring it in line with the rules of the Central Government relating to the superannuation of its employees. The Committee however express their satisfaction that on being pointed out, the Ministry have taken note of the discrepancy as observed by the Committee and have communicated to CISF for issuing amendment to Rule 7 (1) by deleting the words "*or such other age as may be specified by the Central Government from time to time".* The Committee therefore, recommend that the proposed amendment in Rule

		7(1) may be brought out within a fixed time frame and a copy of the amended notification may also be furnished for perusal by the Committee.
2	**2.4**	**The Ministry of Home Affairs, Department of Official Language, Central Hindi Training Institute, Hindi Teaching Scheme, Assistant Director (Hindi Typewriting and Hindi Stenography) Recruitment Rules, 2014 (GSR 95 of 2014)** **The Committee note that under column 7(ii) of the Schedule pertaining to the post of Assistant Director (Hindi Typewriting and Hindi Stenography), besides requisite proficiency in Hindi Shorthand, speed of 40 words per minute in Hindi Typewriting has still been computed on the basis of manual typewriters especially when these typewriters have already been replaced by computers in almost all Government organizations. The Committee also note that even though the Recruitment Rules, prior to their publishing in final form, had to go through a rigorous process of concurrence, consultation and vetting by DoPT, UPSC and the Ministry of Law respectively, such errors go unnoticed and the plea of the Ministry that Hindi typewriting is being conducted by the UPSC only on manual typewriters also appears untenable especially when office automation has already reached to all the organizations of Government of India. The Committee, however, express their satisfaction that Ministry of Home Affairs on being pointed out has agreed to bring out appropriate amendment regarding transformation of speed in Hindi Typewriting to 'key depressions'. The Committee therefore, recommend that the proposed amendment may be brought out expeditiously and the amended notification may be furnished to the Committee.**
3.	**3.5**	**The Coffee Board (Cadre and Recruitment) Rules, 2014 (GSR 198-E of 2014).** **The Committee note that in the aforesaid rules, the terms like 'Govt. Of India or Central Govt' have been liberally used for the purpose of Appointing Authority / Approving Authority etc. and on seeking clarification it has been stated that it indicates either the Ministry of Commerce and Industry or the Department of Personnel and Training. The Committee observe that when terms, words or expressions have more than one meaning it should be explicitly clarified in the rules**

		itself so that there is no scope for varied interpretation of the expressions. The Committee therefore, recommend that the Ministry may clarify the above terms in the Rules themselves and bring out the necessary amendment to the Rules.
	3.8	**The Committee note that the terms like 'key posts' which was used in the Rules were unclear and non-specific. The use of such ambiguous terms in the rules tend to open the scope for varied interpretation by different persons. The Committee observe that on being pointed out, the Ministry have clarified that the key posts comprises of the posts of the Chairman, Secretary and Director of Finance. The Committee opine that vague expressions and terms tend to weaken the rules in terms of their framing and application. The Committee, therefore, recommend that the Ministry may clarify the term 'key post' in rules and bring out an amendment to this affect.**
	3.11	**In the schedule for scientific posts, entry in column 6 indicates that the experience is to be drawn from the recognized institution in the field of agricultural research or agricultural extension or Agricultural Teaching. The term recognized institution lacks specificity and is bears the risk of being interpreted differently by differently persons in accordance to their convenience.**
	3.12	**The Committee note that the expressions such as recognized institution which are unable to convey the exact nomenclature and could be interpreted variedly should be avoided in the rules. The Committee desire that as far as possible the terms in rules should be spelt out with precision and accurately so that it does not leave scope for varied interpretation. The Committee note with satisfaction that on being pointed out the Ministry have agreed to amend the rules suitably. The Committee recommend that the Ministry may bring out the amendment at the earliest.**
	3.17	**The Committee note that the 'disqualification clause' is very much indispensible part of the recruitment rules and the standard clause on definition is generally part of the all subordinate legislation which usurp power from the Act of the Parliament. The Committee observe that the Ministry should ensure that while drafting rules standard clauses should**

		certainly form part of rules. The Committee note with satisfaction that when the issue was taken up with the Ministry, the Ministry have agreed to incorporate the above clauses in the rules. The Committee recommend that the Ministry may amend the rules suitably to include above two clauses.
	3.20	**The Committee note that there was lack of clarity in relation to the method of recruitment for the posts at Sl. No(s) 5, 6, 7, 8 & 20 in Non-Technical Posts and at Sl. No. 1 in Technical Post. The Committee note with satisfaction that the Ministry have agreed to amend the rules for necessary clarity in the method of recruitment. The Committee desire that Ministry should be more vigilant in drafting the recruitment rules so that clarity in rules is maintained. The Committee recommend that the Ministry may bring about the necessary amendments in the rules.**
	3.24	**The Committee note that for the aforesaid posts the probation period was not prescribed even though there was a change in service group. The Ministry have given the clarification that as the above posts are tenure posts, therefore, no probation period is applicable. The Committee observe that already for various posts which are in the nature of tenure posts the same has been mentioned. Therefore, the Committee recommend that for the sake of clarity in the rules for above posts, it may be indicated that these posts are tenure posts.**
	3.28	**The Committee note that in column 8, probation period has been prescribed as two years for selection to the post of Deputy Director (Official Language). However, the probation period is only applicable to the feeder cadre carrying the grade pay of Rs 4600 and not the grade pay of Rs 5400 which was clarified by the Ministry when the ambiguity was pointed out. The Committee desire that lack of specificity in prescribing the probation period is certainly an infirmity which should be rectified. Therefore, the Committee recommend that the Ministry may amend the rules to clearly state that the probation period is only applicable for the feeder cadre which carries a grade pay of Rs 4600.**

	3.32	**The Committee strongly view the fact that Ministry had ignored the apparent contradiction in the entries for the posts at Sl. No. 3 and 4 in the 'scientific posts'. While one entry prescribed an experience of 10 years in the grade pay of Rs 5400, the other entry prescribes a probation period of two years eventhough the post to which recruitment is to be made carries a grade pay of Rs 6600. The Committee note that the both the grade pay were part of single pay band and consequently, no probation period was applicable. The Committee note with satisfaction that on being pointed out the Ministry have proposed to amend the rules to delete the probation period. The Committee recommend that Ministry may amend the rules to make the necessary changes.**
	3.35	**The Committee seriously take note of the fact that the Ministry have failed to notice the glaring contradiction in the entries in the rules and prescribed a probation period when non was applicable. The Committee observe that the rules have prescribed probation period for the post of Assistant Specialist which carries a grade pay of Rs 4600 and feeder cadre carries a grade pay of Rs 4200. The probation period has been prescribed despite the fact that both the grade pays are part of Pay Band-2. The Committee note that on being brought to the notice of the Ministry, they have proposed to delete the probation period for the aforesaid post. The Committee recommend that the Ministry may bring out the necessary amendment to remove the probation period for the aforesaid posts at the earliest.**

APPENDIX II

(Vide Para 5 of the Introduction of the Report)

EXTRACTS FROM MINUTES OF THE NINTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (2014-2015)

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The ninth sitting of the Committee (2014-15) was held on Tuesday, the 5th May, 2015 from 1600 to 1700 hours in Chairperson's Chamber, Room No. 146, Parliament House, New Delhi.

PRESENT

1. Shri Dilipkumar Mansukhlal Gandhi — Chairperson

MEMBERS

2. Shri Idris Ali
3. Shri P.P. Chaudhary
4. Shri Shyama Charan Gupta
5. Shri Jhina Hikaka
6. Shri Chandulal Sahu
7. Adv. Narendra Keshav Sawaikar
8. Shri Nandi Yellaiah
9. Shri Birendra Kumar Chaudhary

SECRETARIAT

1.	Shri Shiv Singh	-	Joint Secretary
2.	Shri Ajay Kumar Garg	-	Director
3.	Shri Raju Srivastava	-	Additional Director
4.	Smt. Jagriti Tewatia	-	Deputy Secretary

2. XX XX XX XX

3. The Committee, thereafter, considered following Memoranda:-

(i) **Memorandum No. 14 –** The Central Industrial Security Force, Security Wing, Sub-Inspector (Executive) Recruitment Rules, 2013 (GSR 783-E).

(ii) **Memorandum No. 15 –** The Ministry of Home Affairs, Department of Official Language, Central Hindi Training Institute, Hindi Teaching Scheme, Assistant Director (Hindi Typewriting and Hindi Stenography) Recruitment Rules, 2014 (GSR 95).

(iii) **Memorandum No. 16 –** The Coffee Board (Cadre and Recruitment) Rules, 2014 (GSR 198-E).

4. After deliberations, the Committee decided to incorporate the points raised in the Memoranda Nos. 14 to 16 in their Report to be formulated in this regard.

5. XX XX XX

The Committee then adjourned.

**Omitted portion of the Minutes are not relevant to this Report

EXTRACTS FROM MINUTES OF THE THIRTEENTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (2014-2015)

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The Thirteenth sitting of the Committee (2014-15) was held on Tuesday, the 4th August, 2015 from 1500 to 1630 hours in Committee Room No. 62, Parliament House, New Delhi.

PRESENT

1. Shri Dilipkumar Mansukhlal Gandhi — Chairperson

MEMBERS

2. Shri C.R. Chaudhary
3. Shri P.P. Chaudhary
4. Shri Jhina Hikaka
5. Shri Chandulal Sahu
6. Shri Ram Prasad Sarmah
7. Adv. Narendra Keshav Sawaikar
8. Shri Birendra Kumar Chaudhary

SECRETARIAT

1. Shri Ajay Kumar Garg - Director
2. Smt. Jagriti Tewatia - Deputy Secretary

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7. The Committee, thereafter, considered and adopted the draft 'Sixth, Seventh, Eighth and Ninth Reports' of the Committee without any modification. The Committee also authorised the Chairperson to present these reports to the House.

8. XX XX XX XX

The Committee then adjourned.

**Omitted portion of the Minutes are not relevant to this Report